

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 01-0336P

Gross and Adjusted Gross Income Tax

Fiscal Years ended 03/31/95, 03/31/96, 03/31/97, and 03/31/98

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer distributes electronic components and computer systems. At audit it was determined that the taxpayer failed to report audit adjustments from two federal audits as required. Taxpayer also failed to report Indiana destination sales for fiscal year 1998 and reported only eleven percent (11%) of the actual tax liability.

Taxpayer filed a penalty protest letter dated November 16, 2001.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it had totally restructured the tax department in the past three years with a complete new staff. Taxpayer further states that it has taken numerous actions to bring it into compliance with Indiana tax regulations.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence

shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

Taxpayer failed to remit approximately eighty-eight percent (88%) of its tax for fiscal year 1998, failed to report Federal RAR adjustments, made other errors, and has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.